

Improper Loan Servicing and Collection Appeal

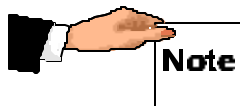
QUALIFYING

What is an improper loan servicing and collection appeal?

An improper loan servicing and collection appeal is a challenge submitted to the U.S. Department of Education (Department) alleging that a postsecondary school's (school) official cohort default rate includes defaulted Federal Family Education Loan (FFEL) Program and/or William D. Ford Federal Direct Loan (Direct Loan) Program loans on which the borrower did not make a payment and the lender/servicer failed to perform loan collection activities specified in 34 CFR § 668.17(h).

Which schools are eligible to submit an improper loan servicing and collection appeal?

If a school's most recent official cohort default rate (in this case FY 1997) is equal to or greater than 20.0 percent, the school may file an appeal alleging improper loan servicing and collection¹ if it believes that one or more defaulted FFEL Program and/or Direct Loan Program loans included in its official cohort default rate calculation did not receive loan servicing activities specified in 34 CFR § 668.17(h).



A school does NOT have to be subject to sanctions to submit an appeal on the basis of improper loan servicing and collection, but the school's official cohort default rate must be 20.0 percent or greater.

¹ HEA § 435(a)(3) and 34 CFR § 668.17(h)(1)

Why should a school submit an improper loan servicing and collection appeal?

If eligible, a school should submit an improper loan servicing and collection appeal if it believes that there are improperly serviced loans in its official loan record detail report as defined in 34 CFR § 668.17(h) and it has not previously appealed the official cohort default rate based on allegations of improper loan servicing and collection.

This checklist summarizes the criteria for an improper loan servicing and collection appeal. A school should review the checklist to determine if it can appeal on the basis of improper loan servicing and collection.



Improper Loan Servicing and Collection Appeal Eligibility Checklist

To be eligible to appeal its official cohort default rate on the basis of improper loan servicing and collection, a school must meet ALL of the following criteria:

- ☐ the school's most recent official cohort default rate is 20.0 percent or greater;
- AND
- ☐ after reviewing the loan servicing records for defaulted loans included in the school's official cohort default rate, the school believes that the loans were improperly serviced as described in 34 CFR § 668.17(h)(3)(viii);
- AND
- ☐ the school has NOT previously appealed the official cohort default rate at issue on the basis of improper loan servicing and collection.

Which cohort default rates may a school appeal?

The sanction(s) to which a school is subject determine which cohort default rates a school may appeal on the basis of improper loan servicing and collection.

- If the school is NOT subject to sanctions, but its most recent official cohort default rate (in this case FY 1997) is 20.0 percent or greater, it may **ONLY** appeal its most recent official cohort default rate (in this case FY 1997) based on allegations of improper loan servicing and collection.
- If the school is subject to **initial loss** of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility, it may appeal any or all of the three most recent official cohort default rates on which the loss is based (in this case FY 1997, FY 1996, and/or FY 1995) — as long as the school has not previously challenged that fiscal year's official cohort default rate on the basis of improper loan servicing and collection.
- If the school is subject to **extended loss** of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility, it may appeal **ONLY** the most recent (in this case FY 1997) official cohort default rate.
- If the school is subject to possible action to **limit, suspend, and/or terminate (LS&T)** its eligibility to participate in all Title IV Student Financial Assistance Programs due to its most recent official cohort default rate, but it is NOT subject to initial loss of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program participation, it may appeal **ONLY** the most recent (in this case FY 1997) official cohort default rate.

Please refer to the “Effects on Official Cohort Default Rates” section beginning on page 25 for more information on sanctions.

Q . If a school is subject to both initial loss of FFEL Program/Direct Loan Program/Federal Pell Grant Program eligibility AND LS&T, which official cohort default rates may the school appeal?

A . The school may appeal its three most recent official cohort default rates, as long as it has not previously appealed that year's official cohort default rate on the basis of improper loan servicing and collection.

The table below summarizes the official cohort default rates that a school may appeal on the basis of improper loan servicing and collection.

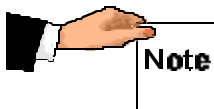
Official Cohort Default Rates That May Be Appealed on the Basis of Improper Loan Servicing and Collection	
If a school is subject to ...	The school may...
no sanctions and has an FY 1997 official cohort default rate that is 19.9 percent or lower	NOT appeal
no sanctions but has an FY 1997 official cohort default rate of 20.0 percent or greater	appeal FY 1997
initial loss of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility	appeal FY 1997, FY 1996,* and FY 1995*
extended loss of FFEL Program and/or Direct Loan and Federal Pell Grant Program eligibility	appeal FY 1997
LS&T only (based on FY 1997 cohort default rate)	appeal FY 1997
LS&T AND initial loss of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program	appeal FY 1997, FY 1996,* and FY 1995*

* Provided that the school has not previously appealed the cohort default rate on the basis of improper loan servicing and collection.

How can an improper loan servicing and collection appeal affect a school's official cohort default rate?

If, as a result of an improper loan servicing and collection appeal, the Department determines that a loan (or loans) should be removed from the school's official cohort default rate calculation, the Department will remove the improperly serviced loan (or loans) from the numerator and the denominator of the school's official cohort default rate calculation and recalculate the rate using the corrected data.² **This generally lowers the school's official cohort default rate.**

Please refer to the chart on page 24 in the section entitled "Cohort Default Rates" for an explanation on how the removal of loans from the cohort default rate calculation affects the cohort default rate.



Even though the Department may alter a school's cohort default rate calculation, subsequent copies of the school's loan record detail report will not reflect the change. Therefore, it is important to keep a copy of the Department's final determination letter as the official record of the school's cohort default rate.

If a school received a **representative sample** of loan servicing records and the Department determines that some of the loans included in the sample were improperly serviced, the Department will extrapolate the results of the review over the entire population of relevant defaulted accounts included in the cohort default rate calculation.³

² HEA §435(m)(1)(B)

³ 34 CFR §668.17(h)(3)(v)(B)

When is a defaulted loan considered improperly serviced for cohort default rate purposes?

A defaulted **FFEL Program loan** is considered to have defaulted due to improper servicing⁴ if:

- the **borrower never made a payment**;
- AND
- the school can document that the lender **failed to perform one or more** of the following activities:
 - ✓ send at least one **letter** (other than the final demand letter) urging the borrower or endorser to make payments on the loan (if the lender was required to send such letters);
 - ✓ attempt at least one **telephone call** to the borrower or endorser (if such attempts were required);
 - ✓ submit a request for **pre-claims assistance to the guaranty agency** (if such a request was required);
 - ✓ send a **final demand letter** to the borrower (if required);
- AND/OR
- ✓ submit a certification (or other evidence) that **skip tracing** was performed (if required).



Servicing and collection activities performed by the lender after the final demand letter has been sent will not be considered when determining if a loan has been properly serviced for cohort default rate purposes.

⁴ 34 CFR § 668.17(h)(3)(viii)(A)

A defaulted **Direct Loan Program loan** is considered to have defaulted due to improper servicing⁵ if:

- the **borrower never made a payment**
- AND
- the school can document that the Direct Loan servicer **failed to perform one or more** of the following activities:
 - ✓ send at least one **letter** (other than the final demand letter) urging the borrower or endorser to make payments on the loan (if the Direct Loan servicer was required to send such letters);
 - ✓ attempt at least one **telephone call** to the borrower or endorser unless the borrower or endorser is incarcerated or is residing outside a State, Mexico, or Canada (if such attempts were required);
 - ✓ send a **final demand letter** to the borrower (if required);
 - AND/OR
 - ✓ document that skip tracing was performed if the Direct Loan servicer determined it did not have the borrower's current address.



Servicing and collection activities performed by the Direct Loan servicer after the final demand letter has been sent will not be considered when determining if a loan has been properly serviced for cohort default rate purposes.

Q . Does the Direct Loan servicer have to request pre-claims assistance in order for a Direct Loan Program loan to be considered properly serviced?

A . No, there is no parallel for this activity in the Direct Loan Program.

⁵ 34 CFR § 668.17(h)(3)(viii)(B)

What is involved in skip tracing?

Skip tracing is required when the lender/servicer receives information indicating that the borrower's address of record is not current or is incorrect.

The lender/servicer must either:

- certify that skip tracing was performed;
- OR
- perform at least one of the following—
 - ✓ attempt to contact the endorser;
 - ✓ attempt to contact the borrower's relatives;
 - ✓ attempt to contact the borrower's references;
 - ✓ attempt to contact the borrower, endorser, or references using telephone directory assistance;
 - ✓ attempt to contact any individual and/or any entities in the borrower's loan file;
- OR
- ✓ perform any other normal skip tracing activity.



For cohort default rate purposes, skip tracing is NOT required if:

- 1) the lender/servicer receives information regarding an incorrect address on or after 151 days of the borrower becoming delinquent;

OR

- 2) the lender/servicer has the borrower's address but does not have a record of the borrower's correct telephone number.

Is a loan considered improperly serviced for cohort default rate purposes if the servicing conducted on the loan does not meet the requirements outlined in 34 CFR § 682.411?

No. The requirements outlined in 34 CFR § 682.411 define the steps a lender must take in order for the lender and guaranty agency to qualify for federal payments on a loan. The requirements outlined in 34 CFR § 668.17(h) form the only basis on which a school may submit a cohort default rate appeal based on improper loan servicing and collection.

When is a defaulted loan considered properly serviced for cohort default rate purposes?

A defaulted **FFEL Program loan** is considered to have been properly serviced if:

- the **borrower made a payment**;
- OR
- the loan servicing records indicate that the lender **performed** the following activities, as required:
 - ✓ sent at least one **letter** (other than the final demand letter) urging the borrower or endorser to make payments on the loan (if the lender was required to send such letters);
 - ✓ attempted at least one **telephone call** to the borrower or endorser (if such attempts were required);
 - ✓ submitted a request for **pre-claims assistance to the guaranty agency** (if such a request was required);
 - ✓ sent a **final demand letter** to the borrower (if required);

Q . If a school believes that a loan servicing record is improperly serviced because it does not meet the requirements outlined in 34 CFR § 682.411, should the school submit the loan servicing record to the Department?

A . No, a school should only submit a loan servicing record to the Department if the record does not meet the requirements outlined in 34 CFR § 668.17(h).

AND/OR

- ✓ submitted a certification (or other evidence) that **skip tracing** was performed (if required).

A defaulted **Direct Loan Program loan** is considered to have been properly serviced if:

- the **borrower made a payment**;

OR

- the loan servicing records indicate that the Direct Loan servicer **performed** the following activities as required:

- ✓ sent at least one **letter** (other than the final demand letter) urging the borrower or endorser to make payments on the loan (if the Direct Loan servicer was required to send such letters);
- ✓ attempted at least one **telephone call** to the borrower or endorser unless the borrower or endorser is incarcerated or is residing outside a State, Mexico, or Canada (if such attempts were required);
- ✓ sent a **final demand letter** to the borrower (if required);

AND/OR

- ✓ submitted a certification (or other evidence) that **skip tracing** was performed if the Direct Loan servicer determined that it did not have the borrower's current address (if required).

Examples of properly and improperly serviced loans for cohort default rate purposes.

Example 1: The following is an example of a **properly serviced FFEL Program loan**.

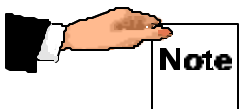
The loan servicing record for Sarah Watson's FFEL Program Stafford loan indicates that a collection letter regarding the FFEL Program Stafford loan was mailed to Sarah by the lender on November 11, 1997. In addition, the lender attempted to contact Sarah by telephone on January 14, 1998. Finally, the loan servicing record indicates that a pre-claims assistance request was sent by the lender to the guaranty agency on April 15, 1998 and a final demand letter was mailed to Sarah on May 15, 1998. This loan is considered **properly serviced** because the required efforts identified in 34 CFR § 668.17(h)(3)(viii)(A) were conducted and the record did not show any evidence that the borrower's address was incorrect.

This account should **NOT** be included in a school's appeal based on allegations of improper loan servicing and collection.

Example 2: The following is an example of a **properly serviced FFEL Program loan**.

The loan servicing record for Joey Dean's FFEL Program Stafford Loan shows that Joey defaulted on the loan on September 10, 1998. However, on October 20, 1997, Joey made a payment on the FFEL Program loan. Therefore, this loan is considered **properly serviced** because the borrower made a payment; one of the requirements in 34 CFR § 668.17(h)(3)(viii).

This account should **NOT** be included in a school's appeal based on allegations of improper loan servicing.



A Direct Loan Program loan would also be considered properly serviced for cohort default rate purposes if the borrower made a payment on the loan prior to defaulting on the loan.

Example 3: The following is an example of a **properly serviced Direct Loan Program loan**.

The loan servicing record for Wanda Smith's Direct Loan Program loan indicates that a collection letter regarding the loan was mailed to Wanda by the Direct Loan servicer on October 13, 1997. In addition, the Direct Loan servicer attempted to contact Wanda by telephone on February 18, 1998. Finally, the loan servicing record indicates that a final demand letter was mailed to Sarah on May 17, 1998. This loan is considered **properly serviced** because the required efforts identified in 34 CFR § 668.17(h)(3)(viii)(B) were conducted and the record did not show any evidence that the borrower's address was incorrect.

This account should **NOT** be included in a school's appeal based on allegations of improper loan servicing and collection.

Example 4: The following is an example of a **properly serviced loan** requiring **skip tracing**.

The loan servicing record for Ralph Marshall shows that numerous letters were mailed to Ralph, and all the letters were returned with no forwarding address. The lender was unable to contact Ralph by telephone and all phone calls to the references listed on Ralph's loan application and to Ralph's school did not yield a new or forwarding address for Ralph. The lender's calls to directory assistance, the motor vehicle department, and the credit bureau were not successful in finding a current address for Ralph. A final demand letter was not sent to Ralph because an updated address could not be obtained. In addition, Ralph did not make any payments on his loan. However, because the lender conducted at least one skip tracing activity on this account, it is considered a **properly serviced** loan.

This account should **NOT** be included in a school's cohort default rate appeal based on allegations of improper loan servicing and collection.

Example 5: The following is an example of a borrower with **multiple loans**.

Susie Smith has three FFEL Program loans in the FY 1997 official cohort default rate. The official loan record detail report and the loan servicing records show that Susie had two subsidized FFEL Program Stafford loans that defaulted and one unsubsidized FFEL Program Stafford loan that defaulted. The lender serviced the two subsidized FFEL Program loans together. The loan servicing records for the subsidized loans indicate that a collection letter was mailed and a phone call was made by the lender. In addition, the lender requested pre-claims assistance from the guaranty agency and sent a final demand letter to the borrower. These loans are considered **properly serviced** and should **NOT** be included in a school's cohort default rate appeal based on allegations of improper loan servicing and collection.

The unsubsidized FFEL Program Stafford loan was serviced separately from the two subsidized FFEL Program Stafford loans, with different dates for the phone calls, letters, and final demand letter. However, there is no evidence in the loan servicing record that the lender requested pre-claims assistance from the guaranty agency for the unsubsidized FFEL Program Stafford loan. In addition, there is no evidence that a payment was made on the loan or that the lender received any information that the borrower's address was incorrect. Therefore, this loan is considered **improperly serviced**.

In this example, a school should **ONLY** submit the FFEL Program unsubsidized Stafford loan as part of its appeal based on allegations of improper loan servicing and collection.

Example 6: The following is an example of an **improperly serviced FFEL Program loan**.

The loan servicing record for Jonas Doe's Federal SLS loan shows that a collection letter regarding the Federal SLS loan was mailed to Jonas by the lender on December 8, 1997. In addition, the loan servicing record indicates that the lender attempted to contact Jonas by telephone on January 6, 1998 and a pre-claims assistance request was sent by the lender to the guaranty agency on May 16, 1998. There is no evidence in the loan servicing record that the lender sent a final demand letter to Jonas, that Jonas made a payment on the loan, or that the lender received any information that the borrower's address was incorrect. Therefore, this loan is considered **improperly serviced** because all of the required efforts identified in 34 CFR § 668.17(h)(3)(viii)(A) were not conducted.

This account **should** be included in a school's appeal based on allegations of improper loan servicing and collection.

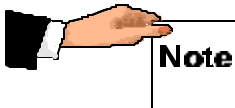
Example 7: The following is an example of an **improperly serviced Direct Loan Program loan**.

The loan servicing record for Clarke Trader's Direct Loan Program loan shows that a collection letter regarding the Direct Loan Program loan was mailed to Clarke by the Direct Loan servicer on November 10, 1997. In addition, the loan servicing record indicates that the Direct Loan servicer sent a final demand letter to Clarke on January 4, 1998. There is no evidence in the loan servicing record that the Direct Loan servicer attempted to contact Clarke by telephone, that Clarke made a payment on the loan, or that the Direct Loan servicer received any information that the Clarke's address was incorrect. Therefore, this loan is considered **improperly serviced** because all of the required efforts identified in 34 C.F.R. § 668.17(h)(3)(viii)(B) were not conducted.

This account **should** be included in a school's appeal based on allegations of improper loan servicing and collection.

What role does a guaranty agency have in a school's improper loan servicing and collection appeal?

Guaranty agencies are responsible for responding to schools' inquiries regarding **FFEL Program loans** they guaranteed and currently hold. At a school's request, a guaranty agency must provide a representative sample of loan servicing records for defaulted loans that it guaranteed and currently holds and that are included in the school's applicable cohort default rate. A guaranty agency may charge a reasonable fee for these records that does not exceed \$10.00 per borrower file.⁶



If a guaranty agency guaranteed and currently holds 99 or fewer borrowers' defaulted loans in a school's cohort default rate, the agency is required to provide all of the loan servicing records associated with each borrower's loan included in the cohort default rate calculation. However, if a guaranty agency guaranteed and currently holds 100 or more borrowers' defaulted loans in a school's cohort default rate, the agency may identify a representative sample of the borrowers and only provide the loan servicing records for those borrowers included in the representative sample.⁷

Please refer to page 274 in the section entitled "Information for Guaranty Agencies on Appeals" for more information on identifying a representative sample.

What role does the Department have in a school's improper loan servicing and collection appeal?

The Department is responsible for responding to a school's request for loan servicing records for FFEL Program loans currently held by the Department and/or Direct Loan Program loans.

⁶ 34 CFR §668.17(h)(3)(ii)(B)

⁷ 34 CFR §668.17(h)(3)(ii)(B)(2)

- The **Department's Default Management Division** is responsible for responding to schools' inquiries regarding **FFEL Program loans that are currently held by the Department**. These loans are identified on the loan record detail report with a guarantor/servicer code of **555**. The address for the Department's Default Management Division is provided in "Appendix A."
- The **Department's Direct Loan servicer** is responsible for responding to schools' inquiries regarding **Direct Loan Program loans**. These loans are identified on the loan record detail report with a guarantor/servicer code of **0101**. The address for the Department's Direct Loan servicer is provided in "Appendix B."

The Department is also responsible for reviewing a school's improper loan servicing and collection appeal. The Department will review each allegation of improper loan servicing and collection listed on the spreadsheet submitted by a school as a part of its timely submitted appeal.

- If the Department determines that an improperly serviced loan(s) was used to calculate the school's cohort default rate, the Department will recalculate the school's rate and notify the school of the revised calculation.

Please refer to page 24 of the "Cohort Default Rates" section for information on adding and subtracting loans from the cohort default rate calculation.
- If the school's revised cohort default rate is below the applicable sanction threshold(s), the Department will withdraw the notice that the school is subject to the loss of eligibility to participate in some or all of the student financial assistance programs.

- If the school's revised cohort default rate is NOT below the applicable sanctioned threshold(s) and the school does not have any other cohort default rate appeals pending before the Department, the Department will notify the school of the effective date of its loss of eligibility to participate in the relevant student financial assistance programs. In addition, the school will be liable for the amount of interest and special allowance, reinsurance, and any other related or similar payments which the Secretary is obligated to pay as a result of any FFEL Program or Direct Loan Program loans certified/delivered and originated/dispensed beginning 30 calendar days after the school received notification of its cohort default rate until it withdraws the cohort default rate appeal or receives notification that the cohort default rate appeal was unsuccessful.⁸

Please refer to page 30 of the "Effects of Official Cohort Default Rates" section for more information on the effective dates for a school's loss of eligibility to participate in the FFEL Program and/or Direct Loan Program and Federal Pell Grant Program.

TIMING AND SUBMITTING

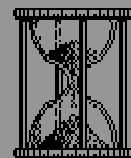
What are the time frames and procedures for submitting an improper loan servicing and collection appeal?

Timing is critical when appealing an official cohort default rate on the basis of improper loan servicing and collection.

- Step 1.** Within **ten working days** of receiving its official cohort default rate, a school must review its official cohort default rate notification letter and this Guide to determine if it is eligible to appeal based on allegations of improper loan servicing and collection.

Please refer to the beginning of this section on page 111 for a detailed discussion regarding which schools are eligible to appeal based on allegations of improper loan servicing and collection.

⁸ HEA § 435(a)(2)(A)



Time frames may overlap. Read ALL steps.

Step 2.

If eligible to submit an improper loan servicing and collection appeal, **within the time frame described in Step 1** (i.e., within ten working days of receiving its official cohort default rate), a school must—

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Mail the following to each entity that is responsible for defaulted loans that are included in the school's applicable cohort default rate:

- ✓ A **letter** requesting the loan servicing records for defaulted loans included in the school's cohort default rate.

Please refer to the sample **Request for Loan Servicing Records** cover letter on page 135.

- ✓ A copy of the **relevant loan record detail report(s)**.



The addresses for the relevant entities to which the request must be submitted can be found by cross-referencing the guarantor/servicer code on the loan record detail report with the guarantor/servicer codes in Appendices A and B.

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Simultaneously send a copy of each letter requesting loan servicing records to the Department. A school does NOT need to send a copy of its loan record detail report to the Department.



If the school does not meet these **10-working-day** time frames, the school's request will not be processed, and the Department will not review the improper loan servicing and collection appeal. This means the school will NOT be eligible to continue with the improper loan servicing and collection appeal process.

Step 3:

Within **15 working days** of receiving a request for payment for the requested loan servicing records, a school must provide full payment. A school that fails to provide full payment within 15 working days will NOT receive the requested records.

Please refer to the “Information for Guaranty Agencies on Appeals” on page 271 for more information on a guaranty agency’s requirement to respond to a school’s request for loan servicing records.



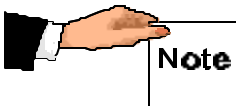
If the entity responding to the school’s request for loan servicing records does NOT charge a fee, please skip to Step 4.

Step 4.

Within **five working days** of receiving the loan servicing records, determine if any records are missing or illegible.

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If the **school** finds that a record identified as a part of the representative sample of defaulted loans is missing or illegible and the school wishes to review the record, it must request the missing or illegible record from the entity that identified the record as a part of the sample within **5 working days** of receiving the representative sample from that entity.



Guaranty agencies/Direct Loan servicer must respond to the subsequent inquiries within **5 working days** of receiving the school's subsequent request.

A loan servicing record is not considered missing or illegible if all the necessary elements noted in 34 CFR §668.17(h)(3)(viii) can be identified. Nor is a loan servicing record considered missing or illegible if collection history documents are present and legible. Therefore, a school may only request additional documentation if the loan servicing record in question does not have the necessary material present to determine if the elements specified in 34 CFR §668.17(h)(3)(viii) are present.

- If a school receives notification from an entity that the requested loan servicing records are currently held by the Department, the school has **5 working days** from receipt of the entity's letter to submit the request for these records to the Department. The school should submit this request to the address listed on page 134.

Step 5: Within **30 calendar days** of receiving the final response to ALL of the school's requests for loan servicing records, determine whether or not each loan was properly or improperly serviced.

Please refer to pages 116 through 124 for a description of how to determine if a loan has been properly or improperly serviced.

Step 6: **Within the time frame described in Step 5** (i.e., within 30 calendar days of receiving the final response to ALL of the school's requests for loan servicing records), decide how to proceed.

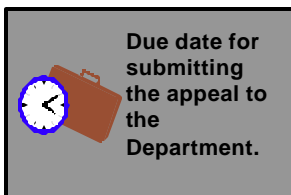
- A school should **withdraw** from the improper loan servicing and collection appeal process if it is convinced that there are NOT any improperly serviced loans in its cohort default rate calculation;

OR

- A school should **continue** with the improper loan servicing and collection appeal process if it is convinced that there ARE improperly serviced loans in its cohort default rate calculation.

Step 7. Notify the Department whether the school is withdrawing from the appeal process or continuing with the appeal process.

- If the school wants to **withdraw** its improper loan servicing and collection appeal, within **30 calendar days** of receiving the last response to ALL of its requests for loan servicing records, notify the Department in writing that the school is withdrawing its improper loan servicing and collection appeal.



**Note**

If a school is appealing its three most recent cohort default rates, it should submit all three improper loan servicing and collection appeals to the Department in a single mailing.

Step 8. Within the time frames described in Step 7, compile a list of the improperly serviced loans using the sample **Improper Loan Servicing and Collection Appeal** spreadsheet on page 139.



Step 9: Within the time frames described in Step 7, submit the school's improper loan servicing and collection appeal to the Department using the address on page 134.


**Note**

If a school fails to timely submit its improper loan servicing and collection appeal to the Department's Default Management Division, the Department will not review the appeal and will return all appeal-related material to the school.

The Department recommends that the school submit an improper loan servicing appeal in a single, tabbed binder. The recommended tabs and materials are shown on the next page.

The following should be sent to the Department's Default Management Division at the address shown on page 134.

<p>The section behind Tab 1 contains:</p> <p>A letter on the school's letterhead with—</p> <ul style="list-style-type: none"> ◆ the school's OPE ID number; ◆ a statement indicating that the school is submitting an improper loan servicing and collection appeal; ◆ the fiscal year to which the appeal applies; ◆ a certification sentence that indicates that the information provided in the appeal, under penalty of perjury, is true and correct.⁹ ◆ the signature of the school's President/ CEO/Owner, followed by a signature block providing the signer's name and job title. <p>AND</p> <ul style="list-style-type: none"> ◆ a notation that a copy of the cover letter of the appeal will be sent to the relevant entity(ies). <p> Schools only need to send a copy of the cover letter of the appeal to the guaranty agency and/or Direct Loan servicer. It is not necessary to send the entire appeal to the guaranty agency and/or Direct Loan servicer.</p> <p>Schools should refer to the sample Improper Loan Servicing and Collection Appeal cover letter on page 137.</p>	<p>Tab 1</p>
<p>The section behind Tab 2 contains:</p> <p>Copies of all relevant correspondence, including the responses to the school's requests for loan servicing records.¹⁰</p>	<p>Tab 2</p>
<p>The section behind Tab 3 contains:</p> <p>A spreadsheet of all the alleged improperly serviced loans</p> <p>Schools should refer to the sample Improper Loan Servicing and Collection Appeal spreadsheet on page 139 and detailed instructions on how to create the spreadsheet on page 138.</p>	<p>Tab 3</p>
<p>The section behind Tab 4 contains:</p> <p>A copy of the alleged improperly serviced loan servicing records¹¹</p> <p> Schools should maintain copies of the loan servicing records submitted to the Department.</p>	<p>Tab 4</p>

 **Note** The Department will review only the information submitted with the improper loan servicing and collection appeal and will not consider information submitted after the regulatory deadlines. The Department will send the school and each involved entity written notification of its decision. **The Department's decision is final and no further administrative review is provided.**

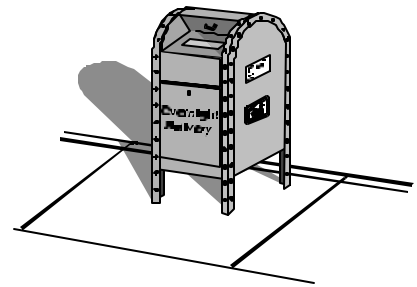
⁹ 34 CFR 668.17(h)(3)(iv)(F)

¹⁰ 34 CFR 668.17(h)(3)(iv)(B) and (C)

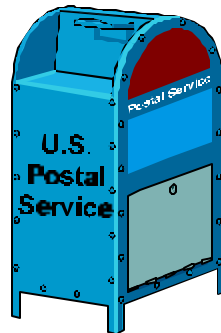
¹¹ Id.

If sent by commercial overnight mail/courier delivery, the school's improper loan servicing and collection appeal should be sent to:

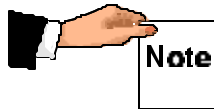
U.S. Department of Education
Default Management Division
ATTN: Improper Loan Servicing
and Collection Appeal
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20407



If sent by U.S. Postal Service, the school's improper loan servicing and collection appeal should be sent to:



U.S. Department of Education
Default Management Division
ATTN: Improper Loan Servicing
and Collection Appeal
Portals Building, Room 6300
400 Maryland Avenue, SW
Washington, DC 20202-5353



The Department will not accept any appeal correspondence by facsimile (fax) or e-mail.

The Department recommends that a school send all appeal correspondence return receipt requested or via commercial overnight mail/courier delivery. This will be useful to a school if it is asked to authenticate the timeliness of its appeal. A school should maintain the documentation which verifies the receipt of the appeal related material. In addition, a school should retain copies of all documentation submitted as a part of the appeal process.

Sample Request for Loan Servicing Records Cover Letter



School of Business

1212 Wedgewood Lane
Leonardtown, Wisconsin 12345-6789
123-456-7890

Sample Letter

October 4, 1999

State Guaranty Agency
Guarantor/Service Code 111
ATTN: Compliance Officer
1010 Maple Lane, Suite 200
Woodston, Michigan 98765-4321

OPE ID#: 111222

Subject: Request for FY 1997 Loan Servicing Records

Dear Mr. Bowen:

School of Business, **OPE ID# 111222**, is requesting its loan servicing records for the loans included in its official FY 1997 cohort default rate.

Please see the enclosed loan record detail report.

Sincerely,

Robert Young

Robert Young, President

Enclosures

cc: U.S. Department of Education, Default Management Division

Sample **Improper Loan Servicing and Collection Appeal** Cover Letter**School of Business**

1212 Wedgewood Lane
Leonardtown, Wisconsin 12345-6789
123-456-7890

Sample Letter

February 5, 1999

U.S. Department of Education
Default Management Division
Attn: Improper Loan Servicing and Collection Appeal
Portals Building, Room 6300
400 Maryland Avenue, SW
Washington, DC 20202-5353

OPE ID#: 111222

Subject: FY 1997 Improper Loan Servicing and Collection Appeal

Dear Default Management Division:

School of Business, **OPE ID# 111222**, is submitting its appeal based on allegations of improperly serviced loans included in its official FY 1997 cohort default rate.

Please see the enclosed correspondence, spreadsheet, and improperly serviced loans which are identified on the spreadsheet.

I the undersigned, certify under penalty of perjury that all information submitted in support of this improper loan servicing and collection appeal is true and correct.

Thank you for your consideration.

Sincerely,

Robert Young

Robert Young, President

Enclosures

Instructions for Improper Loan Servicing and Collection Appeal Spreadsheet

Loan Type Codes	
Code	Description
D1	Direct Loan Subsidized Stafford Loan
D2	Direct Loan Unsubsidized Stafford Loan
SF	FFEL Subsidized Stafford Loan
SL	Supplemental Loans for Student Loan
SU	FFEL Unsubsidized Stafford Loan

Enter MM/DD/CCYY (month, day year) to identify when a demand letter (other than a final demand letter) was sent. Leave blank if a demand letter was not sent.

Enter MM/DD/CCYY to identify when a telephone call to the borrower was attempted. Leave blank if a telephone call was not attempted.

Enter MM/DD/CCYY to identify when pre-claims assistance was requested by the lender for a FFEL loan. Leave blank if pre-claims assistance was not requested. Enter N/A if the loan is a Direct Loan Program loan.

Enter MM/DD/CCYY to identify when a final demand letter was sent. Leave blank if a final demand letter was not sent.

Enter MM/DD/CCYY to identify if there is evidence or certification that skip tracing was performed. Enter N/A (not applicable) if not required or leave blank if evidence or certification is not evident.

Enter "X" if an illegible loan servicing record was provided. Leave blank if record was legible, or if all of the elements are listed on the loan servicing record.

Enter "X" if a loan servicing record was identified as a part of the sample but was not provided by the relevant entity. Leave blank if record was provided.

Enter "X" if a loan servicing record is improperly serviced. Leave blank if record was properly serviced. **Properly serviced loans are NOT to be included in a school's appeal to the Department.**

Enter the guarantor/servicer code associated with the loan on the loan record detail report. These codes can be found in Appendices A and B.

Record all loans being appealed to the U.S. Department of Education using a spreadsheet software application such as Excel, Lotus 1-2-3, or Supercalc.

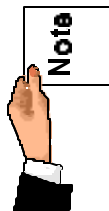
The spreadsheet should be on 8 1/2" x 11" paper in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **FY [insert year(s)] Improper Loan Servicing and Collection Appeal** in the center of the header area. In the left-hand area, enter the school's name and the school's OPE ID number. In the right-hand area, enter the guarantor/servicer code and the number of loans listed for each guarantor/servicer code on the spreadsheet.

Footer: Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of pages show on each page, for example: page 1 of 10 pages.

Sort: The report should be a listing of all **improperly** serviced loans in order by:

1. Guaranty/Servicer code listed on the loan record detail report
2. Borrower's social security number



Only the allegations listed on the school's spreadsheet will be reviewed. If a borrower has more than one defaulted loan and allegations of improper loan servicing and collection are being made on more than one of the defaulted loans, each loan must be listed separately on the spreadsheet.

On Row 1, enter exactly the same column names in exactly the same order as listed on the sample spreadsheet. Ensure that column names appear at the top of each page.

On Row 2 and below, include the following data for each loan for which the school is alleging improper loan servicing and collection.

Column 1: Enter the borrower's social security number (SSN) using hyphens to separate the numbers (example: 000-88-0000).

Column 2: Enter the borrower's name.

Column 3: Enter the loan type. Use the codes shown in the next column to identify the type of loan.

Column 4:

Column 5:

Column 6:

Column 7:

Column 8:

Column 9:

Column 10:

Column 11:

Column 12:

111 ABC Guaranty agency 3 loans

FY 1997 Improper Loan Servicing and Collection Appeal

School of Business
OPE ID 111222

Note: This is a sample spreadsheet.
(See instructions.)

[illegible]

02/05/2000

[send to U.S. Department of Education's Default Management Division at the address located on page 134.]

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